



U.S. Department of Justice

Civil Rights Division

Office of the Assistant Attorney General

Washington, D.C. 20530

Norman Smith, Esq.
Lamar County Attorney
133 Forsyth Street
Barnesville, Georgia 30204

MAR 18 1986

Dear Mr. Smith:

This refers to Act No. 513, H.B. No. 1048 (1985), which provides for the method of electing county commissioners from four single-member districts and one at large with a majority vote requirement, an increase in the number of county commissioners from three to five, a decrease in the terms of office from six to four-year, staggered terms, an implementation schedule, and a districting plan in Lamar County, Georgia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c. We received the information to complete your submission on January 17, 1986.

We note at the outset that in order to obtain preclearance pursuant to Section 5, the county must demonstrate that the submitted voting procedures are nondiscriminatory in both effect and purpose. See Georgia v. United States, 411 U.S. 526 (1973); see also the Procedures for the Administration of Section 5 (28 C.F.R. 51.39(e)). Our analysis confirms that the submitted voting procedures, when compared to the at-large election structure, will enhance the opportunity for black political participation and thus will not have a discriminatory effect within the meaning of Section 5. Beer v. United States, 425 U.S. 130, 141 (1976).

We are unable to conclude, however, that the county has satisfied its burden that the voting procedures are free from discriminatory purpose. According to the information presently available to us, the commissioners of Lamar County selected the proposed 4-1 plan allegedly because a majority of petition signatures and individuals present at two public hearings supported this plan. We have been advised, however, that a majority of those who attended the hearings actually backed the county's five single-member district plan. In addition, it appears that even though a majority of the petition signatures indicated support for the plan, there is no evidence that any effort was made to verify the petition signatures received and relied upon for such a major decision.

While we note the county's assertion that under the 4-1 plan blacks will not be limited to one representative from the single majority black population district, but would also have an opportunity to elect a candidate to the at-large position, the historical lack of success of black candidacies in county at-large elections suggests that the likelihood of a black supported candidate defeating a white-supported opponent in a county-wide election is, at best, remote. The county also asserts that while blacks would certainly be able to elect a black representative to the single majority black population district under the 4-1 plan, blacks cannot be assured of similar success in either of the two majority black population districts under the five single-member district plan. The county's reasoning would appear to overlook, however, the potential for electing candidates of their choice provided to blacks by their percentage of the voting age population in those two districts, thus, affording to them the opportunity secured by the Voting Rights Act.

In the circumstances, it is far from clear that the county's decision to adopt the 4-1 plan was free of discriminatory purpose -- a purpose to minimize to the fullest extent possible black voting opportunities within the county. Accordingly, without a more persuasive explanation offered by the county, I cannot conclude, as I must under the Voting Rights Act, that the submitted 4-1 plan is entitled to Section 5 preclearance. Therefore, on behalf of the Attorney General, I must object to Act No. 513 insofar as it relates to the submitted districting plan.

Of course, as provided by Section 5 of the Voting Rights Act, you have the right to seek a declaratory judgment from the United States District Court for the District of Columbia that these changes have neither the purpose nor will have the effect of denying or abridging the right to vote on account of race or color. In addition, Section 51.44 of the guidelines permits you to request that the Attorney General reconsider the objection. However, until the objection is withdrawn or a judgment from the District of Columbia Court is obtained, the effect of the objection by the Attorney General is to make the change to a 4-1 method of election and districting plan legally unenforceable. 28 C.F.R. 51.9.

To enable this Department to meet its responsibility to enforce the Voting Rights Act, please inform us of the course of action Lamar County plans to take with respect to this matter. If you have any questions, feel free to call Sandra S. Coleman (202-724-6718), Director of the Section 5 Unit of the Voting Section.

Sincerely,

A handwritten signature in dark ink, appearing to read "Wm. Bradford Reynolds", is written over a horizontal line.

Wm. Bradford Reynolds
Assistant Attorney General
Civil Rights Division